

**IN THE UNITED STATES DISTRICT COURT
FOR EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**AVAGO TECHNOLOGIES GENERAL IP
PTE LTD. and AVAGO TECHNOLOGIES
ECBU IP PTE LTD.,**

Plaintiffs,

VS.

**EM MICROELECTRONIC – MARIN S.A,
and EM MICROELECTRONIC – U.S.,
INC.,**

Defendants.

Case No.: 2:07-cv-249 (Ward)

BENCH TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Avago Technologies General IP PTE LTD. and Avago Technologies ECU IP PTE LTD. (collectively, "Avago") allege as follows:

PARTIES

1. Avago Technologies General IP PTE LTD is a Singapore corporation with its principal place of business in Singapore.
 2. Avago Technologies ECU IP PTE LTD is a Singapore corporation with its principal place of business in Singapore.
 3. On information and belief, EM Microelectronic – Marin S.A ("EM Micro Marin") is a Swiss corporation with a principal place of business in Marin, Switzerland.
 4. On information and belief, EM Microelectronic – U.S. Inc. ("EM Micro U.S.") is a Colorado corporation with a principal place of business in Colorado Springs, Colorado.
- Collectively, EM Micro Marin and EM Micro U.S. are referred to herein as "Defendants."

JURISDICTION

5. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1, et seq., including 35 U.S.C. § 271. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) in that this is a civil action arising out of the patent laws of the United States of America.

VENUE

6. Venue in the Eastern District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b) and (c) because a substantial part of the events or omissions giving rise to Avago's claims occurred in this district, and Defendants may be found and/or reside in this district.

COUNT ONE
(Patent Infringement)

7. Avago incorporates by reference paragraphs 1 through 6 of this Complaint and re-alleges them as though fully set forth herein.

8. Avago is the owner by assignment of U.S. Patent No. 6,995,748 (the "'748 patent"), entitled "Apparatus for controlling a screen pointer with a frame rate based on velocity," which was duly issued by the United States Patent and Trademark Office on February 7, 2006, to inventors Gary B. Gordon and Michael J. Brosnan. A true and correct copy of the '748 patent is attached hereto as Exhibit A and is incorporated herein by reference.

9. Pursuant to Fed. R. Civ. P. 11(b)(3), Avago certifies that, to the best of its knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, it has evidentiary support that or will likely be able to show evidentiary support after a reasonable opportunity for further investigation or discovery that:

- (a) In violation of 35 U.S.C. §§ 271(a), (b), and/or (c), Defendants have infringed, and are currently infringing, the '748 patent by making, using, selling, or offering to sell within the United States, or importing or causing to be imported into the United States, inventions protected by one or more claims of the '748 patent and have induced or contributed to the infringement of the '748 patent;

- (b) Defendants' infringement of the '748 patent as set forth herein has been and is deliberate and willful, making this an exceptional case within the meaning of 35 U.S.C. § 285;
- (c) Defendants' infringement of the '748 patent has caused and will continue to cause Avago monetary damage and irreparable harm for which Avago has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Avago prays for judgment as follows:

- A. For a judicial determination that the '748 Patent is valid and enforceable;
- B. For a judicial determination that Defendants are infringing and have infringed, and have contributed to, and induced infringement of, the '748 Patent, and that such infringement has been willful and deliberate;
- C. For an order of this Court enjoining Defendants and their affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns and all those acting for them and on their behalf, or acting in concert with them, from further infringement of the '748 Patent;
- D. For a judicial determination that Defendants' actions in infringing the '748 patent were deliberate and willful;
- E. For an award of money in an amount adequate to compensate Avago for Defendants' infringement, consisting of, *inter alia*, Avago's lost profits, but in any event, not less than a reasonable royalty;
- F. For an increase in damages by a factor up to three times the amount actually found;
- G. For prejudgment interests and the costs of this action;
- H. For a judicial determination, pursuant to 35 U.S.C. § 285, that this case is exceptional and that Avago be awarded reasonable attorneys' fees and costs;

- I. For Avago's costs of suit incurred herein; and
- J. For such other and further relief as this Court deems just and proper.

Dated: June 14, 2007

Respectfully submitted,

/s/ Otis Carroll
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